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Testimony by

Paul M. Elvig

On Behalf Of

International Cemetery, Cremation and Funeral Association

At the Public Hearing on

H.R. 3655, the Bereaved Consumers Bill of Rights

Before the Committee on Energy and Commerce

Subcommittee on Commerce, Trade and Consumer Protection

United States House of Representatives

Washington, D.C.

January 27, 2010

GUARDIANS OF A NATION'S HERITAGE

Chairman Rush and Members of the Subcommittee:

We appreciate this opportunity to testify at this morning's hearing concerning H.R. 3655, the Bereaved Consumers Bill of Rights Act. Our testimony supplements comments we submitted this past August in conjunction with the Subcommittee's field hearing on cemetery oversight conducted in Chicago on July 27, 2009. We respectfully request that our testimony be made part of the permanent hearing record. The International Cemetery, Cremation and Funeral Association (ICCFA) was founded in 1887 and represents approximately 7,300 industry members including nonprofit, for-profit, religious and municipal cemeteries, funeral homes, crematories, monument retailers, and related professions including architects, attorneys and accountants. The ICCFA is the only trade association representing all segments of the death care industry.

The members of the ICCFA have been shocked and dismayed over the reports of illegal disinterments, mishandling of human remains, and the fraudulent reselling of burial spaces at the historic Burr Oak Cemetery in Alsip, IL, and we applaud your leadership for investigating the issues involved and sponsoring H.R. 3655. To place the Burr Oak atrocity into perspective, the bill makes reference to two other incidents of the desecration of graves and the mishandling of remains elsewhere in the United States. However, we note that in each case, Florida, Georgia, and of course Illinois, the state and local authorities responded quickly and decisively, and new laws were enacted to address these heretofore unprecedented situations. We think it fair to ask what role, if any, the federal government could have or should have played when state and local authorities had the situation well in hand.

The ICCFA supports the concepts and disclosures contained in Section 3 of H.R. 3655 as good businesses practices. In fact, these rules to prohibit unfair or deceptive acts and practices reflect the very same standards contained in the ICCFA Model Guidelines that were published over a decade ago and can be accessed on our website at www.iccfa.com. The twenty-eight Model Guidelines for State Law and Regulations include topics on disinterments, recordkeeping, trust funds, prepaid contracts, written price disclosures, and many other aspects of cemetery, mortuary, and crematory operation.

There is no question that the most abhorrent aspect of the Burr Oak investigation was the allegedly unauthorized and illegal defiling of graves. We strongly recommend that illegal disinterments be made a federal crime punishable as felony and respectfully suggest that H.R. 3655 be amended to include this offense. Federal law at 18 U.S.C. Sec. 1369 currently makes the willful injury or destruction or attempts to injure or destroy any veterans' memorial on public property, i.e., a national cemetery, a federal crime punishable by fine or imprisonment of not more than ten years, or both. The ICCFA recommends that this statute be amended to include veterans' memorials on private property, and all cemetery memorials and monuments whether commemorating veterans or non-veterans.

Section 5 of H.R. 3655 states that its provisions shall not preempt state law "that provides protections to consumers of funeral services or funeral goods, except to the extent that the provision of law is inconsistent with any provision of this Act or a rule

prescribed under this Act....” However, we note that a number of states maintain laws that restrict or prohibit certain retailers from selling funeral and cemetery merchandise. The ICCFA urges the Subcommittee to amend H.R. 3655 to preempt any state law that does not allow all retailers to sell funeral and cemetery merchandise to the public.

Section 3 of H.R. 3655 requires the Federal Trade Commission to enact a trade regulation that would cover all sellers of either funeral goods or funeral services, including nonprofit and religious cemeteries. Typically, under an FTC trade rule, we understand that violations are statutorily imposed at the rate of \$11,000 per violation. Frankly, this amount could bankrupt a number of smaller cemeteries that operate with volunteer staffs and possibly one or two paid employees. We suggest that a more constructive approach to regulating good business practices is by developing FTC Funeral Guides, which could then be enforced through Section 5 of the FTC Act. The advantage of this approach would also track patterns of misconduct by a business as determined by the Guides, rather than imposing fines for isolated, one-event “gotcha” shortcomings that sometimes are the approach to trade rule enforcement. In its present form, H.R. 3655 would impose excessive penalties for some relatively minor omissions of disclosure in a manner suggesting that the punishment outweighs the offense. We urge the Subcommittee to reconsider the structure of requiring disclosures, and the penalties that would be imposed under this bill.

We are also concerned that the section 3(c) application to tax exempt organizations, including religious entities, raises both constitutional and jurisdictional

issues. The FTC Act limits the Commission's jurisdiction to businesses that are carried on for profit, and the FTC historically has not attempted to regulate religious organizations or their activities. Given the fact that the overwhelming majority of cemeteries in the United States are nonprofit, including religious, municipal, and fraternal organizations, we believe that H.R. 3655 would have a disproportionate impact on these entities in ways that would never pass a cost/benefits analysis. In addition, the punitive enforcement of a trade rule mandated by H.R. 3655 would have a disproportionate effect on small business, which comprise the majority of funeral homes and cemeteries in the United States.

The ICCFA believes that cemeteries and funeral homes are most efficiently and effectively regulated at the state level. These entities operate locally in their communities and therefore it makes sense to hold them accountable locally. During this Subcommittee's Chicago field hearing in July, we understand that one witness suggested that there may only be ten states with cemetery laws. That is not at all accurate. All fifty states have cemetery laws and regulations although some are more comprehensive than others. To assist the Subcommittee in its research, we are pleased to provide the following link to our website (<http://www.iccfa.com/files/StateLawsandRegulations2009.doc>) for a listing of all state cemetery and funeral home laws and regulations, which printed out, the list alone totals nearly 300 pages. There are also hyperlinks within the document to read the actual statutes and regulations. We have previously provided the Subcommittee staff with this data.

On the federal level, there is no law that specifically governs cemetery and funeral home operations. However, these entities must comply with literally dozens of federal statutes and regulations that affect their operations from the Departments of Labor, Treasury, Justice, Veterans Affairs, the Environmental Protection Agency, the Equal Employment Opportunity Commission, the Federal Communications Commission, the Federal Trade Commission, even the Federal Reserve Board. A listing of many of the agencies and their regulations is attached with hyperlinks. As noted, it is important to recognize that Section 5 of the FTC Act already gives the Commission regulatory authority over businesses engaging in unfair or deceptive practices, which would include cemeteries, funeral homes, crematories, and all related businesses in the funeral services industry.

We respectfully suggest that federal regulations already address most aspects of cemetery and funeral home operations including deceptive sales and marketing practices. At the state level, the new Illinois Cemetery Oversight Act resulting from the Burr Oak investigation provides a case in point at the speed in which local authorities can move when confronted with a serious funeral-related issue. Existing state laws are being used to charge the four individuals apprehended in the Burr Oak investigation with serious crimes, and these defendants are facing multiple counts involving substantial criminal penalties if convicted, including incarceration.

For these reasons, we respectfully suggest that H.R. 3655 should not be critiqued as “a solution in search of a problem,” but should be reconsidered with an understanding

of the interaction between existing state and federal law enforcement as discussed above. The ICCFA looks forward to working with the Subcommittee and its staff to ensure that cemeteries, funeral homes, and crematories are held accountable and will always be regarded as “Guardians of a Nation’s Heritage.” Thank you.

Respectfully submitted,

Paul M. Elvig

Attachments

- 1.) ICCFA Model Guideline: “Disinterment”
- 2.) ICCFA Model Guideline: “Record Keeping Requirements”
- 3.) ICCFA Model Guideline: “Identification of Human Remains in Conjunction with Final Disposition”
- 4.) ICCFA Model Guideline: “Prepaid Contracts”
- 5.) ICCFA Model Guideline: “Written Price Disclosures Prior to Purchasing”
- 6.) List of Federal Regulations Affecting Cemeteries and Funeral Homes
- 7.) Curriculum Vitae of Paul M. Elvig
- 8.) Signed Witness Disclosure Requirement – “Truth in Testimony”

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Model Guidelines for State Laws and Regulations

These guidelines are advisory in nature and set out general concepts rather than precise statutory language. The ICCFA is not recommending that the guidelines be codified into law as a whole. Instead, the guidelines are intended for consideration as a series of options to be selectively chosen by interested parties to address particular concerns.

Disinterment

Developed in 1998 by the Government and Legal Affairs Task Force of the International Cemetery and Funeral Association

BACKGROUND

General policy of law does not favor disinterment, absent compelling reasons. However, a cemetery authority may occasionally receive a request for interred human remains to be disinterred and reinterred within the cemetery or removed from the cemetery. Before the cemetery authority proceeds to honor a disinterment request, it should be assured that all required parties have provided authorization or that disinterment has been ordered by the court.

Disinterment procedures should protect the wishes and intent of the decedent and the respective interests of interment right owners, the next of kin of the decedent, cemetery authorities, and the general public. A cemetery authority should establish procedures to protect the health and safety of those involved in the disinterment process.

PRINCIPLES

1. Human remains interred in a cemetery may be disinterred, reinterred, or removed from the cemetery with the permission of the cemetery authority and written consent from the interment right owner or successor-in-interest and the person(s) who are lawfully authorized to control the final disposition of the human remains, hereinafter referred to as the "authorizing agent."
2. The statutory order of priority to control final disposition should apply to disinterment. The individual(s) with the highest order or priority would serve as the authorizing agent(s) for the disinterment. If there is more than one individual in the same degree of kindred, then all adult parties having the same degree of kindred should consent to the disinterment.
3. The order of priority for an authorizing agent could be as follows:
 - a. The person who was designated by the decedent prior to death as the authorizing agent to control final disposition;
 - b. The surviving spouse;
 - c. The decedent's surviving children 18 years of age or older;
 - d. The decedent's surviving parents;
 - e. The decedent's surviving siblings 18 years of age or older.
4. Prior to performing a disinterment, a cemetery authority should have received authorization for final disposition of the disinterred human remains.
5. The person(s) requesting and authorizing a disinterment should assume financial responsibility for any fees charged by the cemetery authority for performing a disinterment and for any resulting repair or replacement of merchandise that is damaged during the process.
6. The cemetery authority should be held harmless against subsequent claims for decomposition of interred human remains or deterioration of the casket, outer burial container, or other merchandise. A lawful disinterment should not be considered desecration of the interment or of the human remains.
7. The cemetery authority should be held harmless when acting in good faith in connection with the authorized disinterment when relying upon the disclosures and instructions provided by the interment right owner and the authorizing agent.
8. Where a dispute exists among any of the interested parties, a cemetery authority should not be held liable for refusing to disinter the human remains until it receives a court order or other formal notification signed by each of the disputing parties that the dispute has been resolved or settled.

9. If consent to disinter cannot be obtained, the human remains may be disinterred by order of the court having jurisdiction where the cemetery is located.
10. Consent for disinterment should not be required under the following circumstances:
 - a. Disinterment and reinterment by the cemetery authority within the cemetery to correct an error;
 - b. Relocation of human remains from a temporary storage area to a place of permanent interment within the cemetery;
 - c. Repositioning of an outer burial container that encroaches an adjoining grave space.
11. Consent for each disinterment and reinterment should be obtained when raising and lowering human remains to accommodate multiple interments within a single interment space.
12. A cemetery authority, or person designated by the cemetery authority, should be responsible for performing any disinterment or reinterment in the cemetery it owns due to the cemetery authority's care and maintenance obligation.
13. Permanent records should be kept by the cemetery authority concerning any disinterment, reinterment, or removal from the cemetery.
14. If a cemetery authority needs to take action to correct any errors that might be made in making an interment, disinterment, or reinterment in an incorrect location, the cemetery authority should have the right to transfer the human remains to the correct location or to a similar location of comparable value, as might be selected by the cemetery authority. The cemetery authority should have no liability as a result of any error of this type, other than the obligation to correct it.
15. The cemetery authority should be allowed to adopt reasonable rules and regulations for procedures relating to disinterment and reinterment providing that such rules and regulations conform with relevant statutes.

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Model Guidelines for State Laws and Regulations

These guidelines are advisory in nature and set out general concepts rather than precise statutory language. The ICCFA is not recommending that the guidelines be codified into law as a whole. Instead, the guidelines are intended for consideration as a series of options to be selectively chosen by interested parties to address particular concerns.

Record Keeping Requirements

Developed in 1998 by the Government and Legal Affairs Task Force of the International Cemetery and Funeral Association

BACKGROUND

The necessity to retain documentation relating to funeral and final disposition transactions will vary according to the type of facility, the nature of the transaction, and the type of information involved. For example, cemeteries open with the intent of lasting forever. Accordingly, permanent records should be retained for interment spaces and interments performed. Records of interment right ownership and final disposition should also be kept permanently, as should those records relating to the cremation process. However, records relating to at need funeral arrangements, prepaid contracts, or prepaid contract trust fund activities need only be retained for a limited time period following performance or termination.

This guideline is limited to record keeping considerations arising from funeral service and cemetery transactions specifically related to contracts and final disposition.

PRINCIPLES

1. Permanent records should be kept for:
 - a. Each interment space sold, including information such as the specific location, interment right ownership, and the endowment care trust fund contribution;
 - b. Instructions for final disposition of human remains;
 - c. Authorizations for cremations;
 - d. Each interment performed; and
 - e. Data on each memorial installed in the cemetery.
2. In the case of a transfer of interment rights between owners, information should be retained permanently pertaining to such transfer.
3. Copies of all prepaid contracts and a record of prepaid contract trust fund deposits and withdrawals should be retained for a specified time period following performance or termination of the prepaid contract.
4. At need contracts should be retained for a specified time period following performance.
5. Records may be kept on paper or in a machine-readable form including, but not limited to, computer disks, magnetic tape, microfilm, microfiche, or digital imaging.
6. The regulatory authority should have reasonable access to examine required records to determine compliance. Records should be maintained in a secure location, which may be separate from the selling location, provided that the regulatory authority is notified of such location.
7. Information that the regulatory authority receives from examinations including, but not limited to, financial, accounting, and transactional records, should be kept confidential, except as required in a legal proceeding.
8. The cemetery authority, crematory authority, direct disposer, funeral establishment, or similar business should be allowed to adopt reasonable rules and regulations for record content and retention, providing that such rules and regulations conform with relevant statutes.
9. The cemetery authority, crematory authority, direct disposer, funeral establishment, or similar business should not be held liable for relying upon erroneous information that has been provided to them by third parties.

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Model Guidelines for State Laws and Regulations

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Handling of Human Remains In Conjunction With Final Disposition

Developed in 1998 by the Government and Legal Affairs Task Force of the International Cemetery and Funeral Association

BACKGROUND

All aspects of the final disposition of human remains should be handled with dignity, observing standards of decency, and in accordance with applicable laws.

Final disposition can be in the form of burial, entombment, inurnment, burial at sea, scattering, dispersion into space, shipment, or delivery of cremated remains to a designated person. The steps included in the preparation process for final disposition include, but are not limited to, removal, autopsy, embalming, cleansing, dressing, viewing, visitation, ceremony, cremation, and the selection of merchandise, services, and interment rights. The care and preparation of human remains is a process where, due to issues of privacy, respect, and safety, access during certain procedures should be limited to authorized individuals, and on occasion, immediate family members of the deceased.

At all times, human remains should be treated with dignity. Intentional misconduct in handling the human remains should not be tolerated. Accordingly, penalties for such actions should be sufficiently severe to discourage the activity and punish those who engage in it.

PRINCIPLES

- 1.) Upon taking custody of the human remains, the entity in charge of the final disposition should verify that the container which encases the human remains bears identification of the deceased and is accompanied by the proper documentation.
- 2.) The cemetery authority, crematory authority, direct disposer, funeral establishment, or related businesses should be held harmless in connection with the authorized final disposition, when relying upon the identification and disclosures provided by the authorizing agent and acting in good faith upon the instructions of the authorizing agent.
- 3.) If there is a delay in the final disposition, human remains that have not been embalmed or cremated should be held in a refrigeration unit until such time as final disposition occurs.
- 4.) In the event that the cremated remains are unclaimed for a stated period of time, the crematory authority should send a letter by registered mail to the authorizing agent. If the cremated remains are unclaimed for a specified period of time after such written notification is mailed, the crematory authority should dispose of unclaimed cremated remains in any proper manner, and be held harmless for this action.
- 5.) The choice of the entity in charge of the final disposition should be left to the authorizing agent of the deceased. It should be considered unethical and illegal conduct to engage in Asterring@ practices, where the human remains are directed to a specific cemetery authority, crematory authority, direct disposer, funeral establishment, or related businesses for payment of a referral fee.
- 6.) Persons employed in the proximity of either the deceased or the next of kin should conduct themselves in a manner consistent with the solemnity of the occasion. Unlawful conduct should include physical contact with human remains for purposes unrelated to the preparation process and final disposition, mutilation, concealment of human remains that have been illegally disinterred, and the acquisition or sale of human remains or body parts. This would not apply to any act performed for a bona fide medical purpose or for any other lawful purpose.

See Also: [HANDLING OF HUMAN REMAINS IN CONJUNCTION WITH THE CREMATION PROCESS](#)

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Model Guidelines for State Laws and Regulations

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Prepaid Contracts

Developed by the Government and Legal Affairs Task Force of the International Cemetery and Funeral Association

The nature of contracting for cemetery and funeral merchandise and services on a preneed basis is different from most other consumer transactions because it involves paying for something today which isn't expected to be received for some period of time--perhaps decades. Therefore, it is important to have safeguards to protect the consumer's interests.

The transaction is further complicated by the fact that it is designed to be completed only when one of the parties, the purchaser or a third party beneficiary, has died. Consequently, the relatives or close friends of the deceased are the ones who will actually know whether the transaction was completed as specified in the prepaid contract. This combination of factors creates the potential for misunderstanding about what the deceased wanted or expected. The risk of misunderstanding can be substantially reduced by the use of clearly-worded, detailed prepaid contracts between sellers and purchasers.

Since the proliferation of preneed sales is a fairly recent development, there has been little statutory guidance about what provisions should be specifically included in the prepaid contract. Certain guidelines should augment general contract disclosures to better inform consumers of the nature of the prepaid contract transaction.

PRINCIPLES

1. Prepaid contracts should conform to all applicable state and federal statutes and regulations.
2. Prepaid contracts should be written in plain English, and clearly state the merchandise and services that purchasers are buying and their prices. Use of legal or industry-specific jargon should be avoided, to the extent possible.
3. Charges should be itemized. The itemization should be in greater detail than just a recitation of prices. It should include a complete description of the services to be rendered and an unambiguous description of the merchandise to be delivered.
4. When prices of merchandise or services to be delivered in the future are not guaranteed, or an additional payment may be required in the future, a statement to that effect should be included in the prepaid contract and initialed by the purchaser.
5. There should be an explanation of how the purchaser's funds will be protected to assure the seller's performance in compliance with the prevailing prepaid contract law.
6. The contract must clearly state what happens if merchandise is not available at delivery time and substitution is necessary. In the event of a manufacturer's discontinuation of a model, the description of the merchandise should be sufficiently complete for the authorizing agent to make a decision, based upon objective criteria, about the comparability of a needed substitution.
7. No substitution should be possible without the consent of the purchaser, or upon his or her death, the authorizing agent who lawfully controls the final disposition of the remains. However, the authorizing agent should not be allowed to initiate a material change which is inconsistent with the purchaser's wishes, for the purpose of obtaining a refund, based upon the statutory requirement to adhere to the directions of the deceased. In this regard, the prepaid contract could contain a provision, which is initialed by the purchaser, either prohibiting any changes, or alternatively, specifying what instructions could be modified and by whom.
8. The seller may enter into a written agreement with the purchaser of a prepaid contract providing for payment of a finance charge on any amount due to the seller. The prepaid contract should conform to all other applicable state and federal statutes and regulations governing

imposition of finance charges.

9. There should be a clear disclosure of any applicable law allowing for cancellation by the purchaser within the first few days of entering into a prepaid contract. The prepaid contract should clearly explain whether and under what terms the prepaid contract may be cancelled, after that initial cancellation period, if any.
10. Regulatory authorities should be encouraged to allow placement of all required disclosures together as an addendum to the prepaid contract, rather than requiring disclosures on the face of the prepaid contract. The following should be required when an addendum to the prepaid contract is allowed:
 - a) The seller should be required to obtain a signature of the purchaser on the addendum, in addition to prepaid contract;
 - b) The addendum should be in an easy-to-read format with pages the same size as the prepaid contract;
 - c) The type size should be no smaller than 10 points and the printing should be high contrast for easy readability;
 - d) Subheadings to identify groupings or types of disclosures should be provided for clarity.
11. The purchaser of a prepaid contract may irrevocably waive and renounce his or her right to cancel the prepaid contract. This is essential to purchasers trying to satisfy eligibility requirements for Medicaid and Supplemental Security Income benefits. The waiver and renunciation may be included as a provision of the prepaid contract or made as an addendum, providing that it is signed by the purchaser. The irrevocability of the prepaid contract should not affect the right of the purchaser to change the provider of the prepaid contract.
12. Copies of the prepaid contract and supplemental material, such as information on credit life insurance and transfer or exchange plans, should be provided to the purchaser at the time of the preneed sale.
13. Copies of the prepaid contract and at need documentation should be provided to the authorizing agent at the time of making at need arrangements to ensure that the merchandise and services match those specified in the prepaid contract. A list of items substituted should be a written part of the at need documentation.
14. Copies of all prepaid contracts and at need documentation should be retained by the seller for a specified period of time after performance.
15. Upon performance, or cancellation of a prepaid contract by mutual agreement between the seller and the purchaser, or upon unilateral cancellation by the seller by reason of default of the purchaser, or other valid cancellation by reason of transfer to another provider, or otherwise, the seller should submit sufficient documentation to the trustee to enable withdrawal of all funds contributed, and all earnings attributable to the prepaid contract.

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Model Guidelines for State Laws and Regulations

These guidelines are advisory in nature and set out general concepts rather than precise statutory language. The ICCFA is not recommending that the guidelines be codified into law as a whole. Instead, the guidelines are intended for consideration as a series of options to be selectively chosen by interested parties to address particular concerns.

Written Price Disclosures Prior To Purchasing

Developed in 1998 by the Government and Legal Affairs Task Force of the International Cemetery and Funeral Association

BACKGROUND

When consumers consider contracting for cemetery and funeral merchandise or services, whether on a preneed or an at-need basis, important information that may influence purchasing decisions should be available. Chief among this data are truthful and accurate prices given in written form prior to a purchasing decision being made.

Although the Federal Trade Commission (FTC) Funeral Rule mandates certain written price disclosures by funeral establishments, many related entities including cemetery and crematory authorities, and memorial and casket retailers are generally not covered. As a practical matter, many volunteer, municipal, religious, and fraternal entities organized under various state laws would continue to be excluded from the Funeral Rule due to the FTC's limited jurisdiction over such organizations. However, state regulatory authorities would not be similarly restricted in their coverage.

PRINCIPLES

1. Sellers of funerals, interment rights and related merchandise or services, including cremation, should provide a written price list of all such items offered for sale to a potential purchaser where the purpose of the discussion pertains to the sale of any of these items. Where a large number of items are offered for sale in a category, a range of prices may be used.
2. The potential purchaser should be allowed to retain a copy of the price list for future reference, which may be combined with other required disclosures.
3. The price list should be provided at any location where the meeting between the seller and potential purchaser occurs, not solely at the seller's place of business.
4. The price list should contain the name, address, and telephone number of the seller, and contain the effective date of the prices.
5. Price information should be provided over the telephone when requested by the caller.
6. For enforcement purposes, a warning should be issued by the state regulatory authority for an initial violation. Subsequent violations by the same seller should be assessed based on a graduated scale of monetary penalties.

Model Guidelines [FTC funeral rule](#) [preneed price list](#) [Login or register to post comments](#)

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FEDERAL REGULATIONS
AFFECTING CEMETERIES FUNERAL HOMES

U.S. DEPT. OF TREASURY/IRS

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
IRC Sec. 453C	Repeal of Installment Method	www.irs.gov/efile/453c_internal_revenue_code.aspx
IRC Sec. 460	Construction Contracts	www.irs.gov/efile/460_special_rules_for_long-term_contracts
IRC Sec. 501(c)(13)	Tax-Exempt Cemeteries	www.irs.gov/efile/501c13_exemption_from_tax_on_corporations_certain_trusts_etc
IRC Sec. 642(i)	Perpetual Care Funds	www.irs.gov/efile/642i_special_rules_for_credits_and_deductions
IRC Sec. 685	Funeral Trusts	www.irs.gov/efile/685_treatment_of_funeral_trusts
IRC Sec. 3508	Direct Sellers	www.irs.gov/efile/3508_treatment_of_real_estate_agents_and_direct_sellers
Rev. Rul 84-41	Independent Contractors	www.irs.gov/efile/rev_rul_84_41
Rev. Rul 87-127	Preneed Trust Income	www.irs.gov/efile/rev_rul_87_127
PLR 9533002	Preneed Sale of Burial Plots	www.irs.gov/efile/plr_9533002
PLR 199935060	Preneed Sale of Burial Plots	www.irs.gov/efile/plr_199935060
PLR 9801027	Preneed Cemetery Merchandise Trust	www.irs.gov/efile/plr_9801027

U.S. DEPT OF LABOR/OSHA

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
29 U.S.C. 651, et seq.	The Occupational Health & Safety Act of 1970	http://www.osha-slc.gov/cgi-bin/getdoc.cgi?dbname=Browse.usc&docid=Cite+29USC651
29 U.S.C. Sec 151-169	National Labor Relations Act "NLRA"	www.nlr.gov/
29 U.S.C Chpt 8	Fair Labor Standards Act "FLSA"	www.dol.gov/eis/whd/flra
29 CFR Part 1910, et seq.	General Industry Guides	www.ilpi.com/MSDS/oshna/1910_1200.html
29 CFR Part 1910.1030	Bloodborne Pathogens Standard	www.ilpi.com/MSDS/oshna/1910_1200.html
29 CFR Part 1910.1048	Formaldehyde Standard	www.ilpi.com/MSDS/oshna/1910_1200.html
29 CFR Part 1910.1200	Hazard Communication Standard	www.ilpi.com/MSDS/oshna/1910_1200.html
29 CFR Part 1926,	Sub. P Excavation Standard	www.osha-slc.gov/pls/oshweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1926
29 CFR 825, P.L. 103-3	Family and Medical Leave Act of 1993	www.dol.gov/eis/whd/flmla/flmlaAmended.htm

U.S. DEPARTMENT OF JUSTICE

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
15 U.S.C. 1-7	Sherman Antitrust Act	www.gamingip.com/Statutes/SL-ShermanAct.html
15 U.S.C. 12-27	Clayton Act	www.gamingip.com/Statutes/ClaytonAct/ST-Clayton22-25.html
42 U.S.C. 12101, et seq.	Americans with Disabilities Act of 1990	www.eeoc.gov/policy/ada.html
28 CFR Part 36	ADA Title III, Public Accommodations	www.access-board.gov/adaag/html/adaag.htm

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
42 U.S.C. 1981, et seq.	Civil Rights Act of 1991	www.eeoc.gov/policy/cra91.html
42 U.S.C. 12101, et seq.	Americans with Disabilities Act of 1990	www.eeoc.gov/policy/ada.html

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29 CFR Part 1625	ADEA Age Discrimination in Employment Act	http://law.justia.com/us/cfr/title29/29cfr1625_main_02.html
29 CFR Part 1630	ADA Title I Employment	www.eeoc.gov/policy/ada.html

U.S. ENVIRONMENTAL PROTECTION AGENCY

Citation	Regulation	Link
42 U.S.C. 6901, et seq.	Resource Conservation and Recovery Act	http://law.justia.com/us/codes/title42/42usc6901.html
42 U.S.C 9601, et seq.	Comprehensive Environmental Response, Compensation, and Liability Act of 1980	www.epa.gov/lawstregs/laws/cercla.html
40 CFR Parts 280 and 281	Underground Storage Tanks	www.epa.gov/swerust1/fed/laws/cfr.htm
42 U.S.C. 6901, et seq.	Medical Waste Tracking Act of 1988	http://law.justia.com/us/codes/title42/42usc6901.html
42 U.S.C. 7401, et seq.	Clean Air Act Amendments of 1990	www.epa.gov/lawstregs/laws/caa.html
40 CFR Part 259	Medical Waste Standards	www.epa.gov/waste/laws-regs/regs-non-haz.htm

FEDERAL TRADE COMMISSION

Citation	Regulation	Link
15 U.S.C § 45	Unfair and Deceptive Business Practices	http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+15USC45
15 U.S.C § 13	Price Discrimination	www.law.cornell.edu/uscode/15/13.html
15 U.S.C §1692	Fair Debt Collection Practices Act	www.ftc.gov/ftcp-act.htm
16 CFR Part 453	Funeral Industry Practices Trade Rule	www.ftc.gov/bcp/rulemaking/funeral/index.shtml
16 CFR Part 429	Cooling-off Period for Door-to-Door Sales	http://law.justia.com/us/cfr/title16/16-1.0.1.4.46.html
16 CFR Part 433	Preservation of Consumers' Claims	http://law.justia.com/us/cfr/title16/16-1.0.1.4.48.html
16 CFR Part 310	Telemarketing Sales Rule	www.ftc.gov/bcp/rulemaking/tsr/index.shtml
16 CFR Part 238	Bait Advertising Guide	www.ftc.gov/bcp/guides/baitads-gd.htm
16 CFR Part 251	Use of the Word "Free"	http://law.justia.com/us/cfr/title16/16cfr251_main_02.html
16 CFR Part 239	Deceptive Advertising of Guarantees	http://law.justia.com/us/cfr/title16/16-1.0.1.2.1.8.html
16 CFR Part 233	Deceptive Pricing	http://law.justia.com/us/cfr/title16/16-1.0.1.2.1.6.html
16 CFR Part 435	Mail or Telephone Order Merchandise	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tp=/ecfrbrowse/Title16/16cfr435_main_02.tpl
16 CFR Part 255	Guide Concerning Use of Testimonials and Endorsements In Advertising	http://law.justia.com/us/cfr/title16/16-1.0.1.2.22.html
16 CFR Part 444	Credit Practices	http://law.justia.com/us/cfr/title16/16cfr444_main_02.html

FEDERAL TRADE COMMISSION

Citation	Regulation	Link
16 CFR Part 701	Disclosure of Written Consumer Product Warranty Terms and Conditions	http://law.justia.com/us/cfr/title16/16cfr701_main_02.html
16 CFR Part 702	PreSale Availability of Written Warranty Terms	http://law.justia.com/us/cfr/title16/16cfr702_main_02.html
15 U.S.C §1681	Fair Credit Reporting Act; Fair and Accurate Credit Transaction Act; 2003 Red Flag Regulations	www.ftc.gov/os/statutes/031224fcra.pdf

FEDERAL REGULATIONS
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U.S. DEPT. OF VETERANS AFFAIRS

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
National Cemeteries Act of 1973		http://uscodes.house.gov/download/pls/24C7.txt
38 U.S.C. 2301, et seq.	Burial Benefits	http://www.law.cornell.edu/uscode/html/uscode38/uscode38.usc.sec.38.00002301----000-.html
38 U.S.C. 2401, et seq.	National Cemeteries	http://uscodes.house.gov/download/pls/38C24.txt
38 U.S.C. §901	Allowment for Penalties for Destruction of National Cemetery Property	http://trac.syr.edu/laws/38/38USC00901.html
18 U.S.C. §1369	Penalties for Destruction of National Cemetery Property	http://law.onecle.com/uscode/18/1369.html

FEDERAL COMMUNICATIONS COMMISSION

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
47 U.S.C. 227	Telephone Consumer Protection Act of 1991	http://www.fcc.gov/ogb/policy/TCPA-Rules.pdf
47 CFR Parts 64 and 68	Telemarketing	http://www.fcc.gov/wcb/iaid/47cfr.html

FEDERAL RESERVE BOARD

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
15 U.S.C. 1601, et seq.	Truth in Lending Act	www.nchelp.org/eLibrary/Law/FederalLaws/CreditandInterestRelated/1C6-Truth%20in%20Lending%20Act.pdf
12 CFR Part 226	Regulation Z	http://www.ftic.gov/regulations/laws/rules/6500-1400.html

STATUTES ALSO PROVIDING PRIVATE ENFORCEMENT

<u>Citation</u>	<u>Regulation</u>	<u>Link</u>
15 U.S.C. 107	Sherman Antitrust Act	www.gamingip.com/Statutes/SL-ShermanAct.html
15 U.S.C. 12-27	Clayton Act	www.gamingip.com/Statutes/ClaytonAct/ST-Clayton22-25.html
17 U.S.C. 101, 500	Copyright Act of 1978	http://www.copyright.gov/title17/92chap1.html
42 U.S.C. 12101 et seq.	Americans With Disabilities Act	www.eeoc.gov/policy/ada.html
42 U.S.C. 21	Civil Rights Act	www.law.cornell.edu/uscode/42/ch21.html

PAUL M. ELVIG

Evergreen-Washelli Memorial Park and Funeral Home (*retired*)
Seattle, Washington

(Home) 425-743-2127 (cell) 425-361-5332

paul@elvig.org

Professional Background

1990 - 2007 **Evergreen-Washelli Memorial Park and Funeral Home – Seattle, WA**

- 1,500 case per year funeral home
- 1,400 burials per year endowment care cemetery
- 850 case per year crematory
- 95-102 employee facility

General Manager, 2005-07

President & CEO, 2004-05

Vice President of Administration, 1990-2004

Portfolios:

- Corporate development
- At-need cemetery and funeral sales and service
- Governmental and legal affairs
- Employee & customer dispute resolution

1978 - 1990 **Department of Licensing – Program Manager**

Portfolios

- Cemetery Board, 1978-90
 - o Brought criminal and administrative charges against offenders – jail time for two
 - o Re-wrote and organized Revised Code of Washington, submitted same to the 1987 session of the Legislature – passed & signed intact by Governor Gardner
 - o Audited all state endowment care and pre-arrangement trust funds
 - o Investigated and processed all consumer complaints
- Funeral Directors and Embalmers Board, 1988-90
 - o Licensed all funeral directors and embalmers
 - o Issued all establishment and pre-arrangement sales licenses
 - o Redesigned the state board examination tests
 - o Developed board Washington Administrative Codes regarding standards
 - o Brought unprofessional conduct charges against licensed parties (4)

1969 – 1987*

Greenacres Memorial Park and Funeral Home, Ferndale, WA Manager

- 300 case per year endowment care cemetery
- 150 case per year funeral home
- * (1978-87 duties split between State Cemetery Board and Greenacres)

Trade and Regulation Association Activities

- 1994 - Date **International Cemetery, Crematory and Funeral Association (ICCFA a 7,000 member trade association)**
- President 2007-08
 - Vice President – Products and Services 1 yr – Industry Relations 3-yrs – Membership 2-years
 - Industry spokesperson before the House Veterans Affairs Committee -- hearing – National Cemeteries and Memorialization – April 2005 - Washington DC
 - Industry spokesperson before the Senate Special Committee on Aging – hearing April 2000 – Washington DC
 - Industry spokesperson before the Federal Trade Commission – November 1999 and June 2002 – Washington DC
- 1991 - 1999 **Washington State Cemetery and Funeral Association – Board of Directors**
- President 1994-96
 - Testimony before various committees of the Washington and Idaho legislatures ... licensing/oversight issues
 - Revised Code Of Washington review and legislative recommendation
- 1986 – 1990 **National Cemetery Regulators Association**
President 1987-89
Federal Trade Commission hearings representative 1988
- Conducted nationwide pre-paid, out-of-state stored merchandise on-sight audits (Minnesota, South Carolina and Arkansas)
- 1969 – date **Unique Funeral/Cemetery industry activities**
- Supervised over 40 “permitted” disinterments in Whatcom County
 - Re-constructed destroyed cemetery records from the ‘50s & ‘60s for bankruptcy proceedings
 - Directed by a federal court to oversee 100 plus disinterments at Highland Memorial Park – Everett – bankruptcy proceedings
 - 1981 & 1996 “Person-of-the-Year” recipient – Washington State Cemetery and Funeral Association
- Community Activities**
- President – Camas-Washougal Jaycees 1967-8
 - President Bellingham Jaycees 1974-5
 - Whatcom County Rural Library Board 1980-1988 (Chair 1984-88)
 - Toastmasters
 - Church activities ... Adult Sunday School ... Former Elder

PUBLISHED ARTICLES

Encyclopedia of Death & the Human Experience - *Burial Laws* (Contributor within 2-volume encyclopedia by Clifton Bryant & Dennis Peck editors) - Sage Reference Publications – 2009

ICCFA (International Cemetery, Crematory and Funeral Association) Magazine - August-September 2009: *Take care with people wanting to 'cash out' graves, prearrangements*

ICCFA Magazine – June 2009: *When a memory trumped the rules*

The Insider – Washington Cemetery & Funeral Association – January 2009: *"I Have This Choice Lot"*

The Insider – Washington Cemetery & Funeral Association - December 2008: *Driftwood – Breaking the rules*

ICCFA Magazine – August-September 2008: *Capitol Hill Diary ... AK-47s, Congressional offices and sore feet*

ICCFA Magazine – March-April 2008: *Former librarian knows where he'll be 'filed'*

ICCFA Magazine – March-April 2008: *President's letter: Planning for the ICCFA's future*

ICCFA Magazine – January 2008: *President's letter: Gaining friends by association*

American Cemetery – January 2008: *ICCFA President's State of the Industry – challenges and opportunities abound*

ICCFA Magazine – December 2007: *President's letter: Steering the ICCFA to welcome the future*

ICCFA Magazine – November 2007: *President's letter: Advance shopping/selling is good for all*

ICCFA Magazine – October 2007: *President's letter: Let's find something else to argue about*

ICCFA Magazine – August-September 2007: *President's letter: Advice from a former state bureaucrat*

ICCFA Magazine – June 2007: *President's letter: Seeing the convention through fresh eyes*

ICCFA Magazine – May 2007: *President's letter: Now, that's personal*

International Cemetery & Funeral Management – January 2005: *Betting On Success: It's More than Luck*

International Cemetery & Funeral Management – August-September 2005: *Washington, D.C. – in and out*

International Cemetery & Funeral Management – June 2005: Washington report (by Fells) ICFA testifies on burial benefits (on Elvig)

International Cemetery & Funeral Management – August-September 2004: Getting to Know You ... Getting To Know All About You

The Insider – Washington Cemetery & Funeral Association – August 2004: A Friend remembers Dave Daly

International Cemetery & Funeral Management – February 2002: Seven Steps to Building a Relationship with Your Congressional Delegation – your business will depend on it

International Cemetery & Funeral Management – January 2000: Washington report (by Fells) FTC Funeral Rule Workshop Provides Insights by the Participants (on Elvig)

The Western Reporter – December 1990: Is Your Cemetery's Growth on Target?

The Washington State Cemetarian – April 1989 – Cemetery Board adopts Rules – Grants Authority

Note: Paul Elvig wrote numerous articles in cemetery/funeral journals through the 1980's and 1990's ... locating copies can be difficult, but not impossible

CONGRESSIONAL & FEDERAL AGENCY TESTIMONY OF RECORD

April 20, 2005 House Committee on Veteran's Affairs Subcommittee on Disability Assistance and Memorial Affairs – Represented the Funeral and Cemetery Industries regarding veteran's death benefits and memorial funding. Testimony is published and recorded available by web.

June 7, 2002 Federal Trade Commission hearing in DC on the Telemarketing Sales Rule – Represented the International Cemetery and Funeral Association in testimony, published record and recorded FTC hearing regarding the use of TSR as it relates to the industry.

April 11, 2000 US Senate Special Committee on Aging hearing held in DC – official spokesman for the ICFA – testimony both written and recorded by C-SPAN. In addition to prepared remarks, responded to US Senators questions.

November 1999 Federal Trade Commission hearing in DC regarding expansion of the Funeral Rule to Cemeteries. Official spokesman for the ICFA – testimony both written and recorded by FTC staff.

1988 Federal Trade Commission hearing held in San Francisco regarding expanding the Funeral Rule. Represented the National Regulators Association regarding state oversight.

Other Personal Information

Employment Prior to Cemetery/Funeral Industry: Public Library Systems

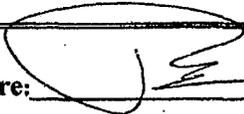
Resides: 315 138th PL SE, Everett, WA 98208

Personal: Age 67, Married 27 years, Children ages 25 and 22

Google search will provide some photos and addition public activities

Committee on Energy and Commerce
U.S. House of Representatives
 Witness Disclosure Requirement - "Truth in Testimony"
 Required by House Rule XI, Clause 2(g)

Your Name: <u>Paul Elvig</u>		
1. Are you testifying on behalf of a Federal, State, or local Government entity?	Yes	<input checked="" type="radio"/> No
2. Are you testifying on behalf of an entity that is not a Government entity?	<input checked="" type="radio"/> Yes	No
3. Please list any Federal grants or contracts (including subgrants or subcontracts) that you personally have received on or after October 1, 2006: <u>None</u>		
4. Other than yourself, please list which entity or entities you are representing: <u>International Cemetery, Cremation and Funeral Association</u>		
5. If your answer to the question in item 2 in this form is 'yes,' please list any offices or elected positions held or briefly describe your representational capacity with the entities disclosed in the question in item 4: <u>Past President</u> <u>Member, Board of Directors</u> <u>Past Vice President</u>		
6. If your answer to the question in item 2 is 'yes,' do any of the entities disclosed in item 4 have parent organizations, subsidiaries, or partnerships that you are not representing in your testimony?	<input checked="" type="radio"/> Yes	No
7. If the answer to the question in item 2 is 'yes,' please list any Federal grants or contracts (including subgrants or subcontracts) that were received by the entities listed under the question in item 4 on or after October 1, 2006, that exceed 10 percent of the revenue of the entities in the year received, including the source and amount of each grant or contract to be listed: <u>None</u>		

Signature:  Date: 1-21-2010
 PAUL M. ELVIG